

(vi) A complete record of all emission tests performed pursuant to this subpart (except tests performed directly by EPA), including all individual worksheets and/or other documentation relating to each test, or exact copies thereof, to be in accordance with the record requirements specified in § 89.404 or § 86.884-10 of this chapter.

(vii) A brief description of any significant audit events not described under paragraph (a)(2) of this section, commencing with the test engine selection process and including such extraordinary events as engine damage during shipment.

(3) The manufacturer must record test equipment description, pursuant to paragraph (a)(1) of this section, for each test cell that can be used to perform emission testing under this subpart.

(b) The manufacturer must retain all records required to be maintained under this subpart for a period of one year after completion of all testing in response to a test order. Records may be retained as hard copy or reduced to microfilm, floppy disc, and so forth, depending upon the manufacturer's record retention procedure; provided, that in every case, all the information contained in the hard copy is retained.

(c) The manufacturer must, upon request by the Administrator, submit the following information with regard to engine production:

(1) Projected production for each engine configuration within each engine family for which certification is requested;

(2) Number of engines, by configuration and assembly plant, scheduled for production for the time period designated in the request;

(3) Number of engines, by configuration and by assembly plant, storage facility or port facility, scheduled to be stored at facilities for the time period designated in the request; and

(4) Number of engines, by configuration and assembly plant, produced during the time period designated in the request that are complete for introduction into commerce.

(d) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional

records or submit information not specifically required by this section.

(e) All reports, submissions, notifications, and requests for approvals made under this subpart are addressed to: Director, Engine Programs and Compliance Division (6405-J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

[59 FR 31335, June 17, 1994. Redesignated and amended at 63 FR 56996, 57020, Oct. 23, 1998]

**§ 89.506 Right of entry and access.**

(a) To allow the Administrator to determine whether a manufacturer is complying with the provisions of this subpart and a test order issued thereunder, EPA enforcement officers or EPA authorized representatives may enter during operating hours and upon presentation of credentials any of the following places:

(1) Any facility where any engine to be introduced into commerce, including ports of entry, or any emission-related component is manufactured, assembled, or stored;

(2) Any facility where any tests conducted pursuant to a test order or any procedures or activities connected with these tests are or were performed;

(3) Any facility where any engine which is being tested, was tested, or will be tested is present; and

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, EPA enforcement officers or EPA authorized representatives are authorized to perform the following inspection-related activities:

(1) To inspect and monitor any aspects of engine manufacture, assembly, storage, testing and other procedures, and the facilities in which these procedures are conducted;

(2) To inspect and monitor any aspect of engine test procedures or activities, including, but not limited to, engine selection, preparation, service accumulation, emission test cycles, and maintenance and verification of test equipment calibration;

(3) To inspect and make copies of any records or documents related to the assembly, storage, selection, and testing

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of an engine in compliance with a test order; and

(4) To inspect and photograph any part or aspect of any engine and any component used in the assembly thereof that is reasonably related to the purpose of the entry.

(c) EPA enforcement officers or EPA authorized representatives are authorized to obtain reasonable assistance without cost from those in charge of a facility to help the officers perform any function listed in this subpart and they are authorized to request the recipient of a test order to make arrangements with those in charge of a facility operated for the manufacturer's benefit to furnish reasonable assistance without cost to EPA whether or not the recipient controls the facility.

(1) Reasonable assistance includes, but is not limited to, clerical, copying, interpretation and translation services; the making available on an EPA enforcement officer's or EPA authorized representative's request of personnel of the facility being inspected during their working hours to inform the EPA enforcement officer or EPA authorized representative of how the facility operates and to answer the officer's or representative's questions; and the performance on request of emission tests on any engine which is being, has been, or will be used for SEA testing.

(2) A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA enforcement officer or EPA authorized representative by written request for his appearance, signed by the Assistant Administrator for Air and Radiation, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel.

(d) EPA enforcement officers or EPA authorized representatives are authorized to seek a warrant or court order authorizing the EPA enforcement officers or EPA authorized representatives to conduct activities related to entry and access as authorized in this section, as appropriate, to execute the functions specified in this section. EPA enforcement officers or authorized representatives may proceed ex parte to obtain a warrant whether or not the

EPA enforcement officers or EPA authorized representatives first attempted to seek permission of the recipient of the test order or the party in charge of the facilities in question to conduct activities related to entry and access as authorized in this section.

(e) A recipient of a test order must permit an EPA enforcement officer(s) or EPA authorized representative(s) who presents a warrant or court order to conduct activities related to entry and access as authorized in this section and as described in the warrant or court order. The recipient must also cause those in charge of its facility or a facility operated for its benefit to permit entry and access as authorized in this section pursuant to a warrant or court order whether or not the recipient controls the facility. In the absence of a warrant or court order, an EPA enforcement officer(s) or EPA authorized representative(s) may conduct activities related to entry and access as authorized in this section only upon the consent of the recipient of the test order or the party in charge of the facilities in question.

(f) It is not a violation of this part or the Clean Air Act for any person to refuse to permit an EPA enforcement officer(s) or EPA authorized representative(s) to conduct activities related to entry and access as authorized in this section if the officer(s) or representative(s) appears without a warrant or court order.

(g) A manufacturer is responsible for locating its foreign testing and manufacturing facilities in jurisdictions where local law does not prohibit an EPA enforcement officer(s) or EPA authorized representative(s) from conducting the entry and access activities specified in this section. EPA will not attempt to make any inspections which it has been informed that local foreign law prohibits.

[59 FR 31335, June 17, 1994. Redesignated and amended at 63 FR 56996, 57020, Oct. 23, 1998]

### § 89.507 Sample selection.

(a) Engines comprising a test sample will be selected at the location and in the manner specified in the test order. If a manufacturer determines that the test engines cannot be selected in the manner specified in the test order, an